

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CONCERNED PASTORS FOR SOCIAL
ACTION, MELISSA MAYS, AMERICAN
CIVIL LIBERTIES UNION OF MICHIGAN,
and NATURAL RESOURCES DEFENSE
COUNCIL, INC.,

Plaintiffs,

v.

Case Number 16-10277
Honorable David M. Lawson

NICK A. KHOURI, FREDERICK HEADEN,
MICHAEL A. TOWNSEND, JOEL
FERGUSON, MICHAEL A. FINNEY,
SYLVESTER JONES, and CITY OF FLINT,

Defendants.

ORDER DISMISSING WITHOUT PREJUDICE
FIRST MOTION TO ENFORCE SETTLEMENT AGREEMENT

The plaintiffs filed a motion on December 27, 2017 to enforce various aspects of a lengthy settlement agreement relating to mitigating the hazards to health caused by the compromise of the Flint Water System. The plaintiffs filed two additional motions to enforce the agreement, and the Court heard testimony on the issues raised. This order addresses only the first motion.

After the first motion was filed, the parties submitted a stipulation that required the City of Flint to furnish specific data with its periodic reports, and the Court entered an order holding the motion in abeyance to allow the defendants to cure alleged defects in later reporting periods. The plaintiffs have filed a supplemental brief indicating that although some of the reporting issues have been resolved, they continue to receive inconsistent and irregular data, as evidenced by the reporting difficulties described in the third motion. They renewed their requests for enhanced reporting requirements.

In their initial motion (R. 155), the plaintiffs asserted that the City defendants failed to comply with the reporting and disclosure provisions under the agreement. The plaintiffs asked the Court to modify the Settlement Agreement by ordering that certain status reports under paragraph 117 and responses to requests for information under paragraph 118 be certified under penalty of perjury and filed with the Court.

In their third motion (R. 173), the plaintiffs have asked the Court to enforce the Settlement Agreement provision relating to the installation of faucet water filters and the related reporting requirements, also under paragraph 117. The plaintiffs ask that similar enhanced certification and filing requirements apply to the faucet filter reports.

The relief requested in the third motion overlaps to some degree with the relief requested in the first motion. The second motion (R. 166) (which deals with certain reporting requirements concerning service line replacement under paragraphs 29 and 30 of the Settlement Agreement) and third motion are currently under consideration by the Court after the testimonial hearing that occurred on August 21, 2018. The Court is waiting for supplemental briefs on that motion.

The Court intends to address the enforcement motions in a single opinion. However, a determination of the reporting issues raised in the third motion likely will apply across the entire Settlement Agreement and subsume the relief requested in the first motion. The first motion, therefore, will be dismissed without prejudice, and the Court will take up those requests for relief when the second and third motions are decided.

Accordingly, it is **ORDERED** that the plaintiff's first motion to enforce the settlement agreement (R. 155) is **DISMISSED WITHOUT PREJUDICE**.

s/David M. Lawson
DAVID M. LAWSON
United States District Judge

Date: September 28, 2018

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first-class U.S. mail on September 28, 2018.

s/Susan K. Pinkowski
SUSAN K. PINKOWSKI